



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/367,950	08/18/1999	TOMMY EKSTROM	06275/188001	4952
26161	7590	10/30/2006	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			ART UNIT	PAPER NUMBER

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 09/367,950	<b>Applicant(s)</b> EKSTROM, TOMMY	
	<b>Examiner</b> Kim, J	<b>Art Unit</b> 1617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 03 March 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attachment.

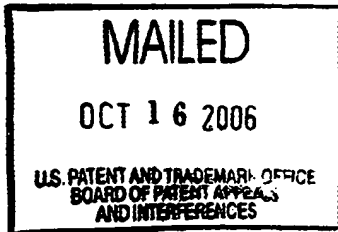
  
 Toi Johnson  
 Appeal Center Manager

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---



---

Ex parte TOMMY EKSTROM

---

Application 09/367,950

---

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

---

This application was received electronically at the Board of Patent Appeals and Interferences on October 10, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on March 3, 2006. A Supplemental Amendment was filed on July 3, 2003 which amended claims 13, 33-36, 38, and 42. It is

noted that the language of the above-noted claims does not appear to have been incorporated in any of the subsequent amendments. Hence the language of claims 13, 33-36, 38, and 42 differs from its last amended version. 37 CFR § 41.37(c)(1)(viii) requires that the Appendix to the Appeal brief contain a correct copy of the claims involved in the appeal.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) for notification to appellant to submit a corrected Appendix to the Appeal Brief filed March 3, 2006, or for the examiner to officially correct the Appendix; and

2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: G.P. Edgell for Dale Shaw  
DALE M. SHAW  
Deputy Chief Appeals Administrator  
(571) 272-9797

DMS:psb

Fish & Richardson  
P.O. Box 1022  
Minneapolis, MN 55440-1022